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CLEARINGHOUSE RULE 01-083

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

a. The agency cites s. 551.23 (18), Stats., as statutory authority for the rule, along with other statutes. A reference to this section is also included in the analysis following s. DFI-Sec 2.02 (9) (n). That analysis states that the proposed change will “. . . enable businesses to substantially increase the amount of investment capital that can be raised under this existing registration exemption.” However, s. 551.23 (18), Stats., authorizes the agency to exempt transactions which it “. . . finds that registration is not necessary or appropriate for the protection of investors.” There does not appear to be such a “finding” in the rule.

b. The agency may wish to include a reference to the statutory authority that permits the collection of fees, as s. DFI-Sec 2.09 (9) (n) 9. requires an issuer to pay a fee of \$200.

2. Form, Style and Placement in Administrative Code

The order of SECS. 2 and 3 should be reversed.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. DFI-Sec 2.02 (9) (a) 5., it is not clear whether *all* of the listed information must be provided, or what the consequences are if the information does not comply with

requirements. Also, since subpar. b. expands those items contained in subd. 5., a clause stating that “except as provided in subd. 6.” should be included in subd. 5.

b. The agency may wish to include an “Initial Applicability” section to clarify which applications will be subject to the revised rule.